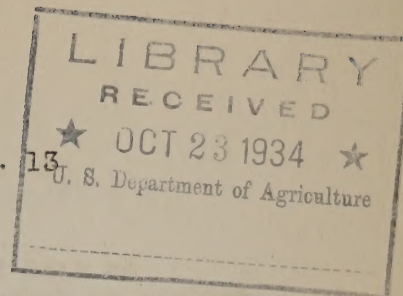


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Twin Cities

Docket No. 13



LICENSE FOR MILK - TWIN CITY SALES AREA

WHEREAS, it is provided by Section 8 of the Act as follows:

"Section 8. In order to effectuate the declared policy the Secretary of Agriculture shall have power --

"(3) To issue licenses permitting processors, associations of producers, and others to engage in the handling, in the current of interstate or foreign commerce, of any agricultural commodity or product thereof, or any competing commodity or product thereof. Such licenses shall be subject to such terms and conditions, not in conflict with existing Acts of Congress or regulations pursuant thereto, as may be necessary to eliminate unfair practices or charges that prevent or tend to prevent the effectuation of the declared policy and the restoration of normal economic conditions in the marketing of such commodities or products and the financing thereof \* \* \*

"(4) To require any licenses under this section to furnish such reports as to quantities of agricultural commodities or products thereof bought and sold and the prices thereof, and as to trade practices and charges, and to keep such systems of accounts, as may be necessary for the purpose of part 2 of this title;" and

WHEREAS, the Secretary has determined to issue licenses as hereinafter provided, pursuant to Section 8 (3) of said Act, and

WHEREAS, the Secretary finds that the marketing of milk for distribution as fluid milk in the Twin City Sales Area and distribution of said fluid milk are entirely in the current of interstate commerce because the said marketing and distribution is partly interstate and partly intrastate commerce, and so inextricably intermingled that said interstate commerce portion cannot be effectively regulated or licensed without regulating or licensing that portion which is intrastate commerce;

NOW, THEREFORE, the Secretary of Agriculture, acting under the authority vested in him as aforesaid;

Hereby licenses each and every distributor of fluid milk who distributes such milk in whole or in part in fluid form for consumption in the Twin City Sales Area, to engage in the distribution of said fluid milk, as distributor in the Twin City Sales Area, subject to the following terms and conditions:



I

As used in this License, the following words and phrases shall be defined as follows:

A. "Fluid milk" means milk, fluid cream, or any product thereof which is sold for consumption in the Twin City Sales Area.

B. "Fluid cream" means all cream purchased except that cream which is used in the manufacture of ice cream, butter or cheese.

C. "Producer" means any person, irrespective of whether any such person is also a distributor, who produces milk sold for consumption as fluid milk in the Twin City Sales Area.

D. "Distributor" means any of the following persons engaged in the business of distributing, marketing or in any handling of fluid milk, in whole or in part, in fluid form for consumption in the Twin City Sales Area:

1. Persons, irrespective of whether any such person is also a producer:

(a) who pasteurize or bottle fluid milk or process milk into fluid milk;

(b) who distribute fluid milk at wholesale or retail  
(1) to hotels, restaurants, stores, or other establishments for consumption on the premises,  
(2) to stores or other establishments for resale, or (3) to consumers;

(c) who operate any store or stores or other establishments for the sale of fluid milk at retail for consumption off the premises.

2. Persons, wherever located or operating, whether within or without the Twin City Sales Area, who purchase, market or handle milk for resale as fluid milk.

E. "Twin City Sales Area" means the cities of St. Paul and Minneapolis, and contiguous towns and villages, townships, and United States Government reservations.

F. "Secretary" means the Secretary of Agriculture of the United States.



G. "Act" means the Agricultural Adjustment Act approved May 12, 1933, as amended.

H. "Person" means individual, partnership, corporation, association, or any other business unit.

I. "Subsidiary" means any person, of, or over whom or which, a distributor or an affiliate of a distributor has, or several distributors collectively have, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

J. "Affiliate" means any person and/or any subsidiary thereof, who has, either directly or indirectly, actual or legal control over a distributor, whether by stock ownership or in any other manner.

K. "Books and records" means books, records, accounts, contracts, memoranda, documents, papers, correspondence, or other data, pertaining to the business of the person in question.

## II

1. The schedule governing the prices at which, and the terms and conditions under which milk shall be purchased by distributors for distribution as fluid milk, shall be that set forth in Exhibit A, which is attached hereto and made a part hereof.

2. The schedule governing the minimum prices at which and the terms and conditions under which fluid milk shall be distributed and sold by distributors shall be that set forth in Exhibit B, which is attached hereto and made a part hereof.

3. The distributors shall not purchase milk from any producer unless such producer authorizes the purchasing distributor, with respect to payments for milk purchased from such producer, to comply with the provisions of Exhibit A.

4. (a) The distributors shall severally, from time to time, upon the request of the Secretary, furnish him with such information on and in accordance with forms of reports to be supplied by him for the purpose of (1) assisting the Secretary in the furtherance of the powers and duties with respect to this License and/or (2) enabling the Secretary to ascertain and determine the extent to which the declared policy of the Act and the purpose of this License are being effectuated; such reports to be verified under oath. The Secretary's determination as to the necessity of and the justification for the making of any such reports, and the information called for thereby, shall be final and conclusive.



(b) For the same purposes and/or to enable the Secretary to verify the information furnished him on said forms and reports, all the books and records of each distributor and the books and records of the affiliates and subsidiaries of each distributor, shall, during the usual hours of business, be subject to the examination of the Secretary. The Secretary's determination as to the necessity of and the justification for any such examination, shall be final and conclusive.

(c) The distributors and their respective affiliates and subsidiaries shall severally keep books and records which will clearly reflect all the financial transactions of their respective businesses and the financial condition thereof.

(d) All information furnished the Secretary, pursuant to this paragraph, shall remain confidential in accordance with the applicable General Regulations, Agricultural Adjustment Administration.

5. No distributor shall purchase milk from or process or distribute fluid milk for, or sell fluid milk to, any other distributor who he knows is violating any provision of this License without first reporting such violation to the Secretary.

6. The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, to act as his representative in connection with any of the provisions contained in this License to be performed by the Secretary.

7. Each distributor shall within 15 days after the effective date of this License furnish to the Secretary a bond with security satisfactory to the Secretary or such other adequate security, as may be satisfactory to the Secretary for the purpose of securing the fulfillment of such distributor's obligations under the terms of this License. The Secretary may, in his own discretion, or upon good cause shown by any distributor, waive such requirement as to any distributor, upon such terms and conditions as the Secretary may determine, but any such distributor may, at any subsequent time, be required by the Secretary to comply with the foregoing requirement.

8. If any provision of this License is declared invalid, or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder of this License and/or the applicability thereof to any other person, circumstance or thing, shall not be affected thereby.

9. Nothing herein contained shall be construed in derogation of the right of the Secretary to exercise any powers granted him by the Act, and, in accordance with such powers, to act in the premises whenever he shall deem it advisable.



10. This License shall take effect as to every distributor at the time and upon the date set forth herein above the signature of the Secretary.

11. In the event that this License is terminated or amended by the Secretary, any and all obligations which shall have arisen by virtue of and in pursuance to this License, prior to such termination or amendment, shall not be deemed to be affected, waived, or terminated, by reason thereof, unless so expressly provided, in the notice of termination of, or in the amendment to the License.

The Secretary hereby determines that an emergency exists which requires a shorter period of notice than three days and the period of notice with respect to the issuance of this License as hereinafter provided, is reasonable under the circumstances.

IN WITNESS WHEREOF, I, Henry A. Wallace, Secretary of Agriculture, do hereby issue this License in the City of Washington, District of Columbia, on this 12th day of February, 1934, and pursuant to the provisions hereof, declare this License to be effective on and after 12:01 A. M. Eastern Standard Time, Feb. 16, 1934.

*Henry A. Wallace*

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Secretary of Agriculture.



EXHIBIT A

SECTION I. Classification of Distributors.

For the purpose of this License, distributors shall be divided into the following three classes:

A. Those distributors who buy their total supply of milk from the Twin City Milk Producers Association.

B. Those distributors who buy a part of their milk supply from producers not members of the Twin City Milk Producers Association, and purchase the remainder of the supply of their milk required from day to day in their usual course of business from the Twin City Milk Producers Association, which shall supply such remainder from day to day to such distributors.

C. Those distributors who buy their supply of milk from producers not members of the Twin City Milk Producers Association.

SECTION II. Prices to be Paid to Producers.

The price paid by the distributors in Class A hereinabove mentioned shall be \$1.60 per hundred pounds for milk testing 3.5% butterfat with a differential of three cents (3¢) per hundred pounds for each one-tenth of 1 percent butterfat content below or above said 3.5% butterfat. Said price to be f.o.b. plant of distributor.

The price paid by the distributor in Class B. above shall be \$1.60 per hundred pounds for milk containing 3.5% butterfat with the same differential for each 1/10th of 1 percent butterfat, below or above 3.5 percent. Said price shall be f.o.b. distributor's plant in the Twin City Sales Area for such part of said milk as is purchased from the Twin City Milk Producers Association. The price paid by distributors in Class B above, to producers who are not members of the Twin City Milk Producers Association shall be the price paid by the Twin City Milk Producers Association to its members for milk of the same test and the difference between this price and \$1.60 per hundred pounds f.o.b. distributor's plant in the Twin City Sales Area shall be remitted by said distributor to the Twin City Milk Producers Association as a service charge for regulating the supply to such distributors in accordance with the provisions set forth above.

The price paid by the distributors in Class C shall be \$1.60 per hundred pounds for milk containing 3.5% butterfat with a differential of 3 cents for each one-tenth of 1 percent butterfat, below or above 3.5 percent butterfat: Provided, however, that such distributors shall be allowed, with respect to the surplus milk which they have purchased and not sold as whole milk due to seasonal fluctuations in the production and/or sale of whole milk in the Twin City Sales Area, to deduct the monthly expense which they incur in handling such surplus milk and/or processing or manufacturing said surplus milk into by-products. In spite of anything in this paragraph to the contrary, the net price paid to producers for all milk received by said distributors in this Class C shall in no event be less for any calendar month, than the blended



price paid by the Twin City Milk Producers Association to its producers for the same month; provided further, however, that if said milk is delivered to a plant outside of the Twin City Sales Area, a reasonable delivery charge may be deducted by the distributors for delivery into the Twin City Sales Area. This delivery charge shall in no event exceed one-half cent per mile for each 100 pounds of milk so delivered.

The distributors in Class C and all producer-distributors who purchase from other producers additional milk or cream for distribution shall purchase all milk from such producers for periods of at least one year.

Distributors shall pay on the following basis for any fluid cream purchased: For each pound of butterfat contained therein, the wholesale price for 92 score butter on the New York market as reported by the United States Department of Agriculture plus 22 percent from the 1st day of November up to and including the 30th day of June and wholesale price of 92 score butter on the New York market as reported by the United States Department of Agriculture plus 25 percent from the 1st day of July up to and including the 31st day of October, both prices being f.o.b. plant distributors.

Distributors shall make complete payments on or before the 20th day of each month for all milk and fluid cream purchased during the preceding month.

### SECTION III. Payments to Dairy Council

Each distributor shall deduct  $\frac{1}{2}\text{¢}$  per hundredweight from the purchase price paid by him pursuant to Section II in regard to all milk other than surplus milk, delivered to him and pay over such deduction to the Dairy Council (a non-profit organization organized under the laws of the State of Minnesota). In addition to such deduction, each distributor shall contribute to the Dairy Council  $\frac{1}{2}\text{¢}$  per hundred pounds of all such milk purchased by him.

The foregoing amounts (totaling one cent per hundred pounds) shall be paid to the treasurer of the Dairy Council by the distributors, simultaneously with making payment to the producers for the milk purchased during the preceding month.

By accepting such funds, the Dairy Council shall be deemed to have consented (a) to keep its books and records in a manner satisfactory to the Secretary, (b) to permit the Secretary to examine its books and records and to furnish him with such verified reports and other information as the Secretary may from time to time request, and (c) to disburse such funds for its general purposes.

### SECTION IV. Establishment of Milk Industry Board

The Secretary may, in his discretion at any time, establish a Milk Industry Board which shall have representation of producers, distributors, and the public. The Milk Industry Board shall have such duties and powers as the Secretary may from time to time delegate in order to effectuate the provisions and purposes of this License. The Secretary may further, in his discretion,



authorize and direct a portion of the payments hereinabove provided for to be paid over to the Milk Industry Board, to meet its general expenses and to be used for the purpose of investigating complaints by producers with respect to weights and tests of milk, but such portion shall in no event exceed one-fourth cent per hundred pounds of milk for which the above payments have been made.

EXHIBIT B

SCHEDULE OF UNFAIR TRADE PRACTICES

1. For the purpose of effectuating the purposes of this License and of aiding in the enforcement of the provisions thereof, the sale of the following articles in the Twin City Sales Area by distributors at prices below the minimum prices hereinafter set forth is prohibited. Such minimum prices shall be as follows:

		Retail	Wholesale
Milk, 3.9 percent or less			
butterfat:	Gallons	\$ -	\$0.20
	Quarts	.07	.06 $\frac{1}{2}$
	Pints	.04 $\frac{1}{2}$	.04
	$\frac{1}{2}$ Pints	-	.02
Milk, 4.0 percent or more			
butterfat:	Gallons	-	.23
	Quarts	.08	.07 $\frac{1}{2}$
	Pints	.05	.04 $\frac{1}{2}$
	$\frac{1}{2}$ Pints	-	.02 $\frac{1}{4}$
Cream, 26 percent or less			
butterfat:	Gallons	-	.70
	Quarts	.23	.22
	Pints	.14	.13
	$\frac{1}{2}$ Pints	.09	.08
Cream, 27-37 percent butterfat			
	Gallons	-	.83
	Quarts	.29	.26
	Pints	.18	.16
	$\frac{1}{2}$ Pints	.10	.09
Cream, 38 percent or more			
butterfat:	Gallons	-	1.08
	Quarts	.36	.33
	Pints	.21	.19
	$\frac{1}{2}$ Pints	.12	.11



2. The foregoing minimum price schedule, is without prejudice to the right of any distributor, who asserts that such minimum prices are in excess of the prices necessary to accomplish the purposes set forth in paragraph 1 of this Exhibit, to a hearing on the question of a modification or amendment of this License in accordance with the applicable General Regulations, Agricultural Adjustment Administration.

3. The foregoing prices shall not be applicable to any sales to public unemployment relief agencies (whether local, state or federal), any private unemployment relief agency cooperating with or accredited by any such public unemployment relief agency, to any charitable institution or agency, to any hospital in connection with its charitable operations, or to any government agency (whether local, state, or federal) when purchased upon competitive bids.

4. No distributor, or its officers, employees, or agents, shall employ any method or device whereby any article is sold or offered for sale at below the foregoing minimum prices, whether by discount, rebate, redeemable certificate, stamps or tickets, free services, gifts, merchandise, credit for articles returned, free entertainment, loans, credit endorsements, or credit outside the usual course of business, or combining prices for such articles together with another commodity sold, by reciprocal business or by subsidy given for business or assistance in procuring business.



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